

## FIRST NOTICE OF COMMENT PERIOD

LSA Document #22-38

## SAFETY-KLEEN SULFUR DIOXIDE MONITORING AND FUEL SAMPLING UPDATES

## PURPOSE OF NOTICE

The Indiana Department of Environmental Management (IDEM) is soliciting public comment on amendments to rules at [326 IAC 7-4.1-16](#) concerning updates for sulfur dioxide monitoring and fuel sampling processes for Safety-Kleen Oil Recovery Company. IDEM seeks comment on the affected citations listed and any other provisions of Title 326 that may be affected by this rulemaking.

**CITATIONS AFFECTED:** [326 IAC 7-4.1-16](#).

**AUTHORITY:** [IC 13-14-8](#); [IC 13-17-3-4](#); [IC 13-17-3-11](#).

## SUBJECT MATTER AND BASIC PURPOSE OF RULEMAKING

**Basic Purpose and Background**

The Clean Air Act (CAA) requires that the United States Environmental Protection Agency (U.S. EPA) set National Ambient Air Quality Standards (NAAQS) for pollutants that cause or contribute to air pollution, which may reasonably be anticipated to endanger public health and welfare. U.S. EPA has set NAAQS for 6 criteria pollutants, one of which being sulfur dioxide (SO<sub>2</sub>).

Safety-Kleen Oil Recovery Company (Safety-Kleen), Source Identification Number 00301, owns and operates an oil re-refinery in Lake County, Indiana. Safety-Kleen is subject to SO<sub>2</sub> limits in [326 IAC 7-4.1-16](#). Safety-Kleen chose to comply with the use of off-gas analysis and fuel sampling for process heaters H-201, H-401, and H-406 with the compliance deadline of December 31, 2005. The method of SO<sub>2</sub> monitoring compliance at [326 IAC 7-4.1-16\(5\)\(A\)](#) uses off-gas stream for process heaters H-201, H-401, and H-406 and includes fuel sampling and analysis for the sulfur content of the fuel in each fuel tank. The fuel sampling occurs after the fuel in the tank has been mixed to ensure consistent composition and must be done prior to the first fuel burning and prior to burning the fuel when additional fuel has been added to the tank. Safety-Kleen agreed to maintain records sufficient to demonstrate compliance for at least 3 years and submit any excess emissions reports to IDEM within 30 days after the end of each calendar quarter. IDEM has determined that this method (specifically off-gas analyzers) is dated and maintenance intensive, making it a nonviable option of SO<sub>2</sub> monitoring for complying with the state and federal emission regulations. An enforcement action was issued due to violations of the SO<sub>2</sub> emission limits; therefore, Safety-Kleen plans to update their SO<sub>2</sub> monitoring method using continuous emission monitor systems (CEMS) for process heaters H-201 and H-401. Safety-Kleen is planning to install CEMS for stacks H-201 and H-401 while continuing to use off-gas stream monitoring for Process Heater H-406. IDEM is updating the rule language to reflect the SO<sub>2</sub> monitoring method being requested by Safety-Kleen so that the source is in compliance with the pending enforcement action. IDEM will replace [326 IAC 7-4.1-16\(5\)](#) with new language to address the monitoring needs for the source.

Safety-Kleen provided IDEM with 5 years of historical data from process heater H-406 to show that this unit is well below the current emission limit of 8 pounds per hour (equivalent to 192 pounds per day) for SO<sub>2</sub>, averaging 0.34 pounds per day. This rulemaking will enable Safety-Kleen to install CEMS for process heater stacks H-201 and H-401 while continuing to use annual sulfur content monitoring for H-406. IDEM is not proposing to remove compliance demonstration requirements for other units at this source. This rulemaking will be submitted to U.S. EPA as a state implementation plan (SIP) revision for their approval.

IDEM seeks comment on the affected citations listed, including suggestions for specific language, any other provisions of Title 326 that may be affected by this rulemaking, and alternative ways to achieve the purpose of the rulemaking.

**Alternatives to Be Considered Within the Rulemaking**

Alternative 1. Amend [326 IAC 7-4.1-16](#) to require for CEMS SO<sub>2</sub> monitoring for H-201 and H-401 while continuing off-gas stream monitoring for H-406, as requested by Safety-Kleen to address an enforcement action.

- Is this alternative an incorporation of federal standards, either by reference or full text incorporation? No.
- Is this alternative imposed by federal law or is there a comparable federal law? This alternative is not imposed by federal law and there is no comparable federal law. This rulemaking is in response to a request from Safety-Kleen to update the sulfur dioxide monitoring requirements and fuel sampling in order to comply with an enforcement action from IDEM's Office of Air Quality.
- If it is a federal requirement, is it different from federal law? Not applicable.
- If it is different, describe the differences. Not applicable.

Alternative 2. Do not amend existing rules.

- Is this alternative an incorporation of federal standards, either by reference or full text incorporation? No.
- Is this alternative imposed by federal law or is there a comparable federal law? No.
- If it is a federal requirement, is it different from federal law? Not applicable.
- If it is different, describe the differences. Not applicable.

### **Applicable Federal Law**

The Lake County SO<sub>2</sub> emission limitations at [326 IAC 7-4.1-16](#) are approved at the federal level into Indiana's SIP. Any revision to the SIP needs to be approved by U.S. EPA. IDEM will base revisions to [326 IAC 7-4.1-16](#) on alternative requirements requested by Safety-Kleen while maintaining SO<sub>2</sub> emissions that are within current federal and state standards.

### **Potential Fiscal Impact**

Potential Fiscal Impact of Alternative 1. This alternative has a potentially significant negative fiscal impact on the source; however, Safety-Kleen has requested that IDEM revise the rules at [326 IAC 7-4.1-16](#) to change the SO<sub>2</sub> monitoring requirements for process heater stacks H-201 and H-401 located in Lake County, Indiana in order to comply with the enforcement action issued by the department. Safety-Kleen is planning to install CEMS for process heaters H-201 and H-401 to comply with the state and federal SO<sub>2</sub> regulations. Installing two SO<sub>2</sub> CEMS has an associated cost of \$250,000 with an annual cost of \$50,000 for maintenance and operation per unit which comes to a total approximate cost of \$600,000. Safety-Kleen will need to install CEMS to both process heater stacks to comply with the SO<sub>2</sub> standards and the enforcement action.

Potential Fiscal Impact of Alternative 2. This alternative will not have a fiscal impact on the source. If this rulemaking does not occur, the conflict between monitoring requirements in the agreed order and the current rule will not be addressed.

### **Small Business Assistance Information**

IDEM established a compliance and technical assistance program (CTAP) under [IC 13-28-3](#). The program provides assistance to small businesses and information regarding compliance with environmental regulations. In accordance with [IC 13-28-3](#) and [IC 13-28-5](#), there is a small business assistance program ombudsman to provide a point of contact for small businesses affected by environmental regulations. Information on CTAP and other resources available can be found at:

[www.in.gov/idem/ctap](http://www.in.gov/idem/ctap)

For purposes of [IC 4-22-2-28.1](#), small businesses affected by this rulemaking may contact the Small Business Regulatory Coordinator:

Angela Taylor  
IDEM Small Business Regulatory Coordinator/CTAP Small Business Liaison  
IGCN 1316  
100 North Senate Avenue  
Indianapolis, IN 46204-2251  
(317) 233-0572 or (800) 988-7901  
[ctap@idem.in.gov](mailto:ctap@idem.in.gov)

For purposes of [IC 4-22-2-28.1](#), the Small Business Ombudsman designated by [IC 5-28-17-6](#) is:

Emily Totten  
Small Business Ombudsman  
Indiana Economic Development Corporation  
One North Capitol, Suite 700  
Indianapolis, IN 46204  
(317) 402-3062  
[etotten@iedc.in.gov](mailto:etotten@iedc.in.gov)

Resources available to regulated entities through the small business ombudsman include the ombudsman's duties stated in [IC 5-28-17-6](#), specifically [IC 5-28-17-6\(9\)](#), investigating and attempting to resolve any matter regarding compliance by a small business with a law, rule, or policy administered by a state agency, either as a party to a proceeding or as a mediator.

The Small Business Assistance Program Ombudsman is:

Erin Moorhous  
IDEM Small Business Assistance Program Ombudsman/Business, Agricultural, and Legislative Liaison  
IGCN 1301  
100 North Senate Avenue  
Indianapolis, IN 46204-2251  
(317) 232-8921 or (800) 451-6027  
[emoorhou@idem.in.gov](mailto:emoorhou@idem.in.gov)

### **Public Participation and Work Group Information**

At this time, no work group is planned for the rulemaking. If you feel that a work group or other informal discussion on the rule is appropriate, please contact Krystal Hackney, Rules Development Branch, Office of Legal Counsel at [KHackney1@idem.in.gov](mailto:KHackney1@idem.in.gov), (317) 232-3158 or (800) 451-6027 (in Indiana).

## REQUEST FOR PUBLIC COMMENTS

At this time, IDEM solicits the following:

- (1) The submission of alternative ways to achieve the purpose of the rule.
- (2) The submission of suggestions for the development of draft rule language.

Comments may be submitted in one of the following ways:

- (1) By mail or common carrier to the following address:

LSA Document #22-38 Safety-Kleen SO<sub>2</sub> and Fuel Sampling Updates

Krystal Hackney

Rules Development Branch

Office of Legal Counsel

Indiana Department of Environmental Management

Indiana Government Center North

100 North Senate Avenue

Indianapolis, IN 46204-2251

- (2) By electronic mail to [KHackney1@idem.in.gov](mailto:KHackney1@idem.in.gov). To confirm timely delivery of submitted comments, please request a document receipt when sending the electronic mail. **PLEASE NOTE: Electronic mail comments will NOT be considered part of the official written comment period unless they are sent to the address indicated in this notice.**

Contact Karla Kindrick at [kkindric@idem.in.gov](mailto:kkindric@idem.in.gov) or (317) 232-8922 if another method of submitting comments within the comment period is desired. Regardless of the delivery method used, in order to properly identify each comment with the rulemaking action it is intended to address, each comment document must clearly specify the LSA document number of the rulemaking.

## COMMENT PERIOD DEADLINE

All comments must be postmarked or time stamped not later than March 18, 2022.

Additional information regarding this action may be obtained from Krystal Hackney, Rules Development Branch, Office of Legal Counsel, [KHackney1@idem.in.gov](mailto:KHackney1@idem.in.gov), (317) 232-3158 or (800) 451-6027 (in Indiana).

Christine Pedersen, Section Chief

Rules Development Branch

Office of Legal Counsel

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An [html](#) version of this document.